

SHORT LIST OF TREASPASS AND FENCE LAWS

4-25-7. County legislative body authorized to adopt fence ordinance in derogation of common law -- Lawful fence to be specified by ordinance.

The county legislative body of any county is authorized through ordinance to declare and enforce a general policy within the county for the fencing of farms, subdivisions, or other private property, to allow domestic animals to graze without trespassing on farms, subdivisions, or other private property. If such an ordinance is adopted, the county legislative body shall through ordinance declare and specify what constitutes a lawful fence.

Amended by Chapter 227, 1993 General Session

CARBON COUNTY FENCING ORDINANCE

From the Development Code of Carbon County ADOPTED March 19, 2003

3.3.14 Fence Ordinance

Whenever owners or lessees of land desire to prevent domestic livestock or wildlife from trespassing on lands due to a change of land use or other reason, they may construct a lawful fence as defined in [Section 9](#) of this Code. Owners of domestic livestock, grazing on Public or private lands, shall not be required to fence livestock under their control out of other adjoining lands, but shall comply with State regulations regarding strays and trespassing animals

9.2 LAWFUL FENCE; DEFINITION

Fence, Lawful – A fence constructed to keep domestic livestock out of an area, parcel or lot. Such fence shall be constructed of sufficient height and strength to keep said livestock from trespassing on the area, parcel, or lot being fenced. No low drag or trip style fence that could injure livestock shall be permitted.

4-25-8. Owner liable for trespass of animals -- Exception -- Intervention by county representative.

(1) The owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person, except in cases where the premises are not enclosed by a lawful fence in a county or municipality that has adopted a fence ordinance, is liable in a civil action to the owner or occupant of the premises for any damage inflicted by the trespass.

(2) A county representative may intervene to remove the animal and the county is entitled to fair compensation for costs incurred. If the animal is not claimed within ten days after written notification is sent to its owner, a county representative may sell the animal to cover costs incurred.

(3) Notwithstanding Subsections (1) and (2), the owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:

(a) the animal enters the premises from an historic livestock trail, as defined in Section **57-13b-102**; and

(b) the premises that was trespassed is not enclosed by an adequate fence at the time the trespass occurs.

Amended by Chapter 118, 2005 General Session

57-13b-101. Easement for Historic Livestock Trail

57-13b-102. Definition.

As used in this chapter, "historical livestock trail" means property over which livestock has historically traveled to or from a grazing area or market.

57-13b-201. Prescriptive easement for livestock trail.

(1) A prescriptive easement may be established if:

(a) a property owner uses an historical livestock trail that crosses another person's property for a period of 20 years; and

(b) the use of the other owner's property as an historical livestock trail for the 20-year period described in Subsection (1)(a) is:

(i) continuous;

(ii) open and notorious; and

(iii) adverse.

(2) If a property owner establishes that a use is continuous and open and notorious under Subsections (1)(b)(i) and (ii), there is a rebuttable presumption that the use is adverse.

(3) Notwithstanding Subsections (1) and (2), a prescriptive easement under this chapter may only be established on private lands.

Enacted by Chapter 118, 2005 General Session

HISTORIC LIVESTOCK TRAIL ACT

57-13b-101. Title.

This chapter is known as the "Easement for Historical Livestock Trail Act."

57-13b-102. Definition.

As used in this chapter, "historical livestock trail" means property over which livestock has historically traveled to or from a grazing area or market.

57-13b-201. Prescriptive easement for livestock trail.

(1) A prescriptive easement may be established if:

(a) a property owner uses an historical livestock trail that crosses another person's property for a period of 20 years; and

(b) the use of the other owner's property as an historical livestock trail for the 20-year period described in Subsection (1)(a) is:

(i) continuous;

(ii) open and notorious; and

(iii) adverse.

(2) If a property owner establishes that a use is continuous and open and notorious under Subsections (1)(b)(i) and (ii), there is a rebuttable presumption that the use is adverse.

(3) Notwithstanding Subsections (1) and (2), a prescriptive easement under this chapter may only be established on private lands.

Enacted by Chapter 118, 2005 General Session

STATE TRESPASS LAW

4-25-8. Owner liable for trespass of animals -- Exception -- Intervention by county representative.

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(2) A county representative may intervene to remove the animal and the county is entitled to fair compensation for costs incurred. If the animal is not claimed within ten days after written notification is sent to its owner, a county representative may sell the animal to cover costs incurred.

(3) Notwithstanding Subsections (1) and (2), the owner of any neat cattle, horse, ass, mule, sheep, goat, or swine that trespasses upon the premises of another person is not liable in a civil action to the owner or occupant of the premises for damage inflicted by the trespass if:

(a) the animal enters the premises from an historic livestock trail, as defined in Section **57-13b-102**; and

(b) the premises that was trespassed is not enclosed by an adequate fence at the time the trespass occurs.

Amended by Chapter 118, 2005 General Session